

EXHIBIT 11

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 - - - - -x

5 SERGEY LEONTIEV,

6 Plaintiff,

Case No. 16-cv-3595

7 -against-

8 ALEXANDER VARSHAVSKY,

9 Defendant.

10 - - - - -x

11 December 20, 2016
12 9:35 a.m.
13

14 *** CONFIDENTIAL ***

15 Videotaped deposition of
16 KAMO AVAGUMYAN, taken by Plaintiff,
17 pursuant to Notice, held at the offices of
18 Roschier Asianajotoimisto Oy, Keskuskatu
19 7A, Helsinki, Finland, before
20 Sharon Lengel, a Registered Professional
21 Reporter, Certified Realtime Reporter, and
22 Notary Public of the State of New York.
23
24
25

A P P E A R A N C E S:

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ALISA MELEKHINA, ESQ.

ALSO PRESENT:

DAVID ROSS ELLIOTT, Videographer
VICTORIA FRANTSEVA, Interpreter
VICTOR POTAPOV, Check Interpreter
VITALIY POPOV, ESQ.

* * *

1 K. AVAGUMYAN - CONFIDENTIAL

2 A. I work as the chairman of the
3 board of the company Akita.

4 Q. And what does Akita do?

5 A. It's a managing company which
6 manages the assets of the companies where
7 I'm also a shareholder.

8 Q. Who owns Akita?

9 A. I own Akita with my partner,
10 Varshavsky.

11 Q. How much of Akita do you own?

12 A. 50 percent.

13 Q. And Mr. Varshavsky owns
14 50 percent?

15 A. Yes.

16 Q. Is Aviron Automobile Group one
17 of the companies that Akita manages?

18 A. Yes.

19 Q. Do you hold any positions in
20 Aviron Automobile Group?

21 A. At this point, I do not.

22 Q. Have you ever held a position at
23 Aviron?

24 A. Yes.

25 Q. When and what position?

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2 A. Chairman of the board.

3 Q. When?

4 A. Starting about 2010.

5 Q. When was Akita formed?

6 A. Last year.

7 Q. Do you have an ownership
8 interest in Avilon?

9 A. I own 45 percent of Avilon.

10 Q. Who are the other owners of
11 Avilon?

12 A. Varshavsky, and we also have a
13 partner, Bakonenko.

14 Q. Anyone else?

15 A. These are the main owners.

16 Q. How much do Mr. Varshavsky and
17 Mr. Bakonenko own?

18 A. 25 percent each.

19 Q. You said you became chairman or
20 you were chairman of Avilon beginning in
21 about 2010.

22 Did you have a position at
23 Avilon before then?

24 A. I was a shareholder.

25 Q. When was Avilon formed?

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2 An economist and a attorney.

3 Q. Where were you working in 2008?

4 A. In 2008, I owned shares at ERK.
5 So I worked at ERK.

6 Q. What were you doing for ERK?

7 A. I had the same -- I had the same
8 responsibilities everywhere. I did not
9 tackle the operational side of the
10 business. I was the chairman of the board
11 of directors.

12 Q. Why was Akita formed?

13 A. To manage more effectively. And
14 as far as I know, there is a form of
15 governing a company and huge holdings like
16 that for a more effective management of
17 the other companies.

18 Q. Forgive me if I've asked this
19 already. But are the owners of Akita the
20 same as the owners of Avilon?

21 A. Akita is owned by me and
22 Varshavsky, and Avilon is owned also by
23 Igor Bakonenko.

24 Q. How do you hold your interest in
25 Akita?

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2 A. Through also and off-shore
3 company.

4 Q. Is it the same off-shore
5 company, Boncast?

6 A. (In English) No.

7 Q. What's the name of the company
8 that --

9 A. Max Bond.

10 Q. Max Bond?

11 Did you ever hold office as in
12 the -- in the general prosecutor's office
13 of Armenia?

14 A. No. I have never held an office
15 in the general prosecutor's office in
16 Armenia.

17 Q. You were not the deputy general
18 prosecutor of Armenia?

19 A. No. I have never been deputy
20 general prosecutor of Armenia.

21 Q. Have you discussed the subject
22 of this lawsuit with Mr. Varshavsky?

23 MR. SMITH: Objection to form.

24 A. He is aware that I was coming
25 here to testify. He knows that I will be

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2 testifying.

3 Q. Did you discuss what you would
4 say in your testimony?

5 A. We discussed that I will only
6 tell the truth and only the truth, and I
7 will answer truthfully to the questions
8 that the attorneys will ask me.

9 Q. Other than Aviron and ERK, have
10 you been in any other business ventures
11 with Mr. Varshavsky?

12 A. We do have another company right
13 now, and we're dealing in agricultural or
14 we're doing agricultural business.

15 Q. What is the name of that
16 company?

17 A. The name of the company is Agro
18 Invest.

19 Q. When was Agro Invest formed?

20 A. About three years ago.

21 Q. And are you and Mr. Varshavsky
22 the only owners of Agro Invest?

23 A. Yes, Mr. Varshavsky and I,
24 50/50.

25 Q. What is the business of Aviron?

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2 MR. SMITH: Objection to form.

3 A. It sells cars, also maintenance
4 and repairs.

5 MR. SMITH: Marshall, can we
6 clarify that one? You asked -- you
7 asked about Avilon. I think he's
8 already testified there are three
9 different Avilon companies.

10 MR. KING: Got it.

11 MR. SMITH: I think he may have
12 answered with respect to one of them.

13 MR. KING: Got it.

14 MR. SMITH: So --

15 MR. KING: Got it.

16 MR. SMITH: Thank you.

17 Q. The company that you just
18 described is Avilon Automobile Group?

19 A. (In English) Yes.

20 Q. And Avilon Plaza is a separate
21 company or -- strike that.

22 Avilon Plaza is a separate
23 company that is involved in real estate?

24 A. Yes.

25 Q. And Avilon Holding holds both of

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2 those companies; is that correct?

3 A. (In English) Yes.

4 Q. Does Avilon Holding own anything
5 else?

6 A. Avilon Plaza, Auto Logistics.
7 That's it. Maybe I'm forgetting
8 something. You know the structure of my
9 company better than me.

10 Q. I doubt that.

11 A. We also created a company, Agro
12 Firma, and -- which deals in animals --
13 agricultural animals.

14 Q. Did you personally have a
15 banking relationship with Probusinessbank?

16 A. I have -- I had a personal
17 relationship with Mr. Zheleznyak Alexander
18 Dmitrievitch, Probusinessbank's -- the
19 chairman of the board of Probusinessbank.

20 Q. And how do you know -- how did
21 you meet Mr. Zheleznyak?

22 A. I met him a very, very long time
23 ago, because the accounts of our company
24 were at Probusinessbank.

25 Q. Which company are you referring

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2 to?

3 A. Aviron.

4 Q. Did you ever borrow money in
5 your personal capacity from
6 Probusinessbank?

7 A. I have not personally ever taken
8 any loans from them.

9 Q. Did you personally have a bank
10 account at Probusinessbank?

11 A. Yes. I did have a credit card
12 with them.

13 Q. Did you ever introduce other
14 people or entities to Probusinessbank for
15 purposes of them obtaining credit from
16 Probusinessbank?

17 MR. SMITH: Objection to form.

18 A. There was one case. Yes.

19 Q. Who did you introduce to
20 Probusinessbank?

21 A. My school friend, he owns a
22 company named Paritet.

23 Q. And what is the name of your
24 school friend?

25 A. Ararat Arakelyan.

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2 A. I have promissory notes. If
3 that means lending, then yes. I have
4 promissory notes that have nothing to do
5 with Probusinessbank.

6 Q. What do you have promissory
7 notes related to?

8 A. I have promissory notes that I
9 received from the company called Life.

10 Q. What were the circumstances of
11 you receiving promissory notes from the
12 Life Group?

13 A. The history of those promissory
14 notes is as follows: Mr. Zheleznyak, with
15 whom I have been friends for a long time,
16 offered -- suggested that I invest my own
17 money into the Life Group, which was
18 controlled by him and his partner,
19 Leontiev.

20 The essence of the business was
21 that they dealt in trading business,
22 trading businesses. So they bought
23 shares, and then they played the stock
24 exchange and insured a very high interest
25 rate, much higher than if the money was

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2 simply invested into their bank. And
3 starting from 2010 or 2011, I started
4 investing into these projects, the
5 so-called promissory notes.

6 Q. So --

7 A. But I have never issued any
8 credits to Probusinessbank, never gave
9 them any loans.

10 Q. So sometime around 2010, you had
11 a conversation with Mr. Zheleznyak?

12 MR. SMITH: Objection to form.

13 A. Yes.

14 Q. Where did the conversation take
15 place?

16 A. In my office.

17 Q. Where was your office?

18 A. Avilon Plaza, same place where
19 Zheleznyak's office was.

20 Q. What did Mr. Zheleznyak tell you
21 about the Life Group?

22 A. He said that it's a financial
23 group outside of the bank, which they
24 formed together with Leontiev, and Sasha
25 Zheleznyak's function was to attract money

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2 into that group. And Mr. Leontiev's
3 function was to place the money and ensure
4 high percentage rates.

5 Q. Did Mr. Zheleznyak provide you
6 with any documentation concerning the Life
7 Group or its investments?

8 A. What kind of documentation do
9 you mean?

10 Q. Did he provide you any sort of
11 investment package or financial
12 information concerning the Life Group?

13 A. I saw something, but I cannot
14 recall at this point what exactly -- what
15 kind of documents exactly. I would like
16 to point out that Mr. Zheleznyak and I
17 were friends, and I trusted him very much.
18 Moreover, the accounts of our company were
19 at his bank, so we had no problems.

20 Q. He was asking you for an
21 investment from you personally; correct?

22 A. Yes.

23 Q. Did you decide to invest with
24 the Life Group?

25 A. Yes, I did, and I was very happy

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2 with it.

3 Q. Why were you happy with it?

4 A. Because they really provided
5 very high percentages, about 9, 10 percent
6 annually. And they paid out regularly.

7 Q. So the interest rate that was
8 being offered to you was higher than other
9 interest rates available to you for
10 investments?

11 A. At that time, yes.

12 Q. Did you understand that there
13 was any risk involved with these
14 investments?

15 A. There are always risks with
16 every business. But as far as I knew,
17 Leontiev was a pretty successful trader,
18 and people said that he was good at buying
19 high-liquidity papers, at least in
20 different networks. That's what people
21 talked about.

22 Q. Did you ask Mr. Zheleznyak for
23 any information about what kinds of
24 securities Financial Group "Life" was
25 investing in?

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2 MR. SMITH: Is there a time
3 period for that question or at any
4 time?

5 Q. At the time that you first
6 invested with him.

7 A. We were talking about the shares
8 of very large American companies, like
9 Apple and many others, very famous, and
10 heard of -- Facebook, I think, huge
11 companies. And he said that Leontiev was
12 a very experienced professional. I had no
13 reason to believe that it wasn't so,
14 because they were successful, and their
15 bank was very successful. So everything
16 went very well.

17 Q. How much money did you invest
18 with him?

19 A. I started investing 1 million or
20 2 million at a time. And from 2010,
21 altogether, I invested about \$20 million
22 and about 5 million Euros, which have
23 not -- which was not returned.

24 Q. How physically did you make the
25 investment? How did you transfer the

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2 money to Financial Group "Life"?

3 A. Physically, it happened in this
4 way. I gave the money in cash at my
5 office in portions that, at that time,
6 were supposed to be invested. Usually,
7 two of the employees of the company came
8 to my office for the money. It was -- for
9 the most part, it was Yanna Krisiuk and
10 Natalia Abramova. They were at our office
11 also.

12 They were renting -- they were
13 renting an office at our building. And
14 they came from the second floor of their
15 office to my office on the 19th floor.
16 They took the money, and they went back to
17 the second floor. In return, I received a
18 promissory note for the amount that I
19 issued at the time -- I gave them at the
20 time.

21 Q. So you handed Ms. Krisiuk or
22 Ms. Abramova a million dollars in cash?

23 A. Yes.

24 Q. Why did you do it in cash?

25 A. Because, initially, that was a

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2 wish -- it was a wish from Zheleznyak,
3 that it would be easier for them to deal
4 in cash. And secondly, in Russia, there
5 is no ban on cash -- on using cash, so I
6 thought it was a normal procedure. What
7 they did with the money further, I do not
8 know. They could have taken it and put it
9 into some accounts or invested. I am not
10 aware of what happened later.

11 Q. And so when you made your first
12 million-dollar investment, you had a
13 million dollars in U.S. cash sitting in
14 your office.

15 A. Yes. I collected cash.

16 Q. And was the money contained --
17 placed in any sort of container when you
18 passed it on to Ms. Krisiuk or
19 Ms. Abramova?

20 A. Physically, it was just put in a
21 bag. And Krisiuk came with a -- with a
22 guard, took the bag, and used the elevator
23 to go to the second floor.

24 Q. And did she hand you back a
25 promissory note at the same time that you

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2 handed her the cash?

3 A. Yes.

4 Q. So she came with a promissory
5 note and handed it to you at the same time
6 she took the cash from you.

7 A. Sometimes. And then sometimes,
8 I gave them the money, and then they
9 brought back the promissory notes in the
10 evening, because we were in the same
11 building. For the most part, Krisiuk was
12 the lady that I dealt with. Abramova was
13 sometimes also the contact person, but
14 mostly Krisiuk.

15 Q. How was the interest rate for
16 the notes decided upon?

17 A. Zheleznyak and Leontiev agreed
18 upon it, usually. Sometimes we
19 negotiated; they offered 8 percent or 9,
20 and I wanted 10. And then Krisiuk took a
21 break, and she went and discussed it with
22 Zheleznyak and Leontiev. And sometimes
23 Zheleznyak called me directly and said, "I
24 cannot give you 10, but I can give you 9."
25 So it was a negotiation, the process of

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2 negotiating.

3 Q. Who decided that you would
4 receive a promissory note in exchange for
5 your investment?

6 A. I did not -- I did not
7 understand the question.

8 Q. Did you discuss with
9 Mr. Zheleznyak whether you would enter
10 into a loan agreement with Financial Group
11 "Life"?

12 A. I don't remember signing
13 anything.

14 Q. Did you discuss with him whether
15 you would enter into a loan agreement?

16 A. I cannot recall anything like
17 that.

18 Q. How was it decided that you
19 would get a promissory note? Did you ask
20 for a promissory note, or did he offer you
21 a promissory note?

22 A. No. He offered promissory
23 notes. This was the kind of investment
24 where I give the money, and they provide
25 the interest rate outside of the bank.

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2 And the promissory note was the document
3 that -- that showed that I gave them that
4 money.

5 Q. Were the promissory notes issued
6 to you?

7 A. No. They were issued to my son.

8 Q. Why?

9 A. That was my decision, because I
10 took it as the money that I wanted my son
11 to inherit. This money was -- this money
12 was not used for any other purposes. It
13 was just a -- the money designated for my
14 son, like an inheritance. Somebody buys a
15 house for their son, somebody buys a car,
16 and somebody a promissory note. I decided
17 to buy promissory notes and leave them for
18 my son. And, naturally, my son knew about
19 the existence of these promissory notes,
20 but I kept them.

21 Q. Do you have any other children?

22 A. Yes. I have another son.

23 Q. And did you obtain promissory
24 notes in the name of your other son?

25 A. No.

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2 Q. How often was interest paid on
3 the notes?

4 A. Every month, one time per month.

5 Q. And to whom was the interest
6 paid?

7 A. Personally to me. Krisiuk
8 brought it.

9 Q. In what form did she bring it?

10 A. Same, in cash. Same as I gave
11 them the investment money, same way they
12 brought me back the interest.

13 Q. Did you pass the interest on to
14 your son?

15 A. No. I collected it, and, as I
16 collected an X amount of money before the
17 next million, then I invested it back
18 again, and I bought another promissory
19 note with it. Most of the promissory
20 notes were for \$1 million, maybe a little
21 bit more or a little bit less sometimes,
22 depending on how much free cash I was able
23 to collect.

24 Q. Did you and Mr. Zheleznyak
25 discuss the term of the investment, how

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2 promissory notes when you received them?

3 A. I put them in my safe.

4 Q. You have a safe in your office
5 at Avilon Plaza?

6 A. Yes.

7 Q. Do you still have copies of
8 promissory notes in that safe?

9 A. Yes.

10 Q. Did you keep any record of how
11 much in interest you received on the
12 promissory notes?

13 A. Can you re-ask the question,
14 please, in different way?

15 Q. Sure.

16 A. Because I received as many
17 percent as it said. Some of the money I
18 spent; some of the money I collected
19 again, and then I gave it back to them.

20 Q. Did you keep track in -- on any
21 document of the interest that you were
22 supposed to receive and the interest you
23 did receive?

24 A. No, I do not -- no, I do not
25 have a document. I always received the

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2 money on the same day that it was
3 promised. Yanna Krisiuk came up in the
4 elevator with the money, and I either
5 spent it or saved it, collected it for
6 future investments. I liked that
7 business.

8 Q. Did you have any involvement in
9 Avilon granting loans to a company called
10 Ambika?

11 A. Like I said before, I did not do
12 any operational management. That's why I
13 did not get involved in any kind of
14 signing of agreements or anything like
15 that. The management dealt with that.
16 But I am aware of the situation that we
17 had a history of interaction with Ambika,
18 which, just like Life Group, was under the
19 control of Zheleznyak and Leontiev.

20 Q. When did you learn about Ambika?

21 A. Maybe five years ago. I don't
22 remember exactly.

23 Q. And who told you that it was
24 under the control of Zheleznyak and
25 Leontiev?

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2 A. Zheleznyak personally talked
3 about it.

4 Q. What were the --

5 A. Because I have never dealt with
6 Leontiev personally. Moreover, our
7 management worked with their management,
8 and all the conditions were discussed with
9 Zheleznyak also.

10 Q. Okay. How do you know that?

11 A. I know because of our management
12 stories, because they invested, and they
13 also paid all the interest timely to the
14 company. This was not in cash. This was
15 under the control of our financial unit
16 and the auditors.

17 Q. When did you learn for the first
18 time that Avilon made a loan to Ambika?

19 A. About five years ago.

20 Q. Who told you?

21 A. The management.

22 Q. Who?

23 A. We have the financial unit.

24 Q. Who?

25 A. We have Monakhova, and also I

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2 Q. At any point in time, did you
3 and Mr. Zheleznyak discuss whether
4 Probusinessbank would guarantee repayment
5 of the notes?

6 A. No. We have never talked about
7 the bank. I understood that the bank
8 could not guarantee the promissory notes,
9 and that's why we never did discuss with
10 the bank, and I understood why I was
11 getting interest so high. They were
12 higher than the bank percentage rates --
13 interest rates.

14 Q. I think we discussed earlier
15 that each of the notes was issued for a
16 term of one year.

17 Do you recall that?

18 A. Yes.

19 Q. And, occasionally, you would ask
20 to have the principal repaid, but
21 sometimes you would ask to have a new note
22 issued; correct?

23 A. Yes. So we would extend it.

24 Q. How did that work mechanically?

25 A. So when the term -- so when the

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2 term of validity was close to expiring on
3 the promissory note, either Zheleznyak
4 called me or Yanna Krisiuk came to me and
5 asked me, "Shall we return the money?"
6 And if I needed the money at the time,
7 then I took the money back; so they
8 brought it back in a bag. But if I didn't
9 need the money, then they prepared a new
10 promissory note for a new date for one
11 year and took the old promissory note
12 back -- I mean, the original.

13 Q. Did you make copies of any
14 expired promissory notes?

15 A. I have always had copies,
16 because they brought an original and a
17 copy. But I didn't keep the copies. So
18 when the term expired, they took the
19 original back, and they gave me a new
20 original of the promissory note. So the
21 old one -- the copy of the old one I did
22 not need. So I destroyed them. I did not
23 keep them.

24 Q. Did you ever give copies of the
25 notes to your son?

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2 MR. KING: I think it's clear,
3 but -- is it past due?

4 MR. SMITH: Yeah. I think it's
5 past due.

6 MR. KING: Past due?

7 MR. SMITH: Yeah.

8 MR. KING: Fine.

9 MR. SMITH: Thank you.

10 Q. Up until last August of 2015,
11 Financial Group "Life" was current with
12 respect to its interest payments?

13 A. Yes, it was. And Yanna brought
14 the money, like she did before. And I
15 have to check, but in May or June, I also
16 made investments. I have to check the
17 promissory notes.

18 Q. When you received the promissory
19 notes from Ms. Krisiuk, did you read them
20 to make sure they were accurately
21 reflecting the terms of your loan?

22 A. The thing that I paid attention
23 to was the interest, which I always
24 communicated verbally -- communicated
25 verbally with Zheleznyak.

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2 to do with this promissory note or these
3 promissory notes.

4 Q. And you knew that because
5 Mr. Zheleznyak told you that the bank had
6 nothing to do with it?

7 A. Definitely so. He said that the
8 only two people that have anything to do
9 with it are him and his partner, Leontiev,
10 who have a business outside, personal
11 business outside of the bank.

12 Q. Did you ever ask Mr. Zheleznyak
13 to get Mr. Leontiev to sign a guarantee in
14 writing for these notes?

15 A. No. I have never asked him
16 about this.

17 Q. Have you ever seen a guarantee
18 in writing from Mr. Leontiev for these
19 notes?

20 A. No.

21 Q. As I understand it, you were
22 comforted by seeing Mr. Zheleznyak's
23 signature on these notes. You thought
24 that was good enough?

25 A. Yes. I thought it was good

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2 or --

3 MR. SMITH: That would be great.

4 THE VIDEOGRAPHER: Okay. This
5 is the end of Media 2, Volume I.
6 We're going off the record at
7 12 minutes past 12:00 p.m., as
8 indicated on the video screen. Thank
9 you.

10 (Recess)

11 (Plaintiff's Exhibit 47, A
12 promissory note, Bates SL0000024, was
13 hereby marked for identification, as
14 of this date.)

15 THE VIDEOGRAPHER: This is the
16 beginning of Media 3, Volume I, in the
17 video deposition of Mr. Kamo
18 Avagumyan. We're back on the record
19 at 12:29 p.m., as indicated on the
20 video screen.

21 BY MR. KING:

22 Q. Who is Diana Karapetyan?

23 A. I do not know.

24 Q. Do you know anyone named
25 Karapetyan?

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2 MR. KING: The word "assign" was
3 translated as something else?

4 MR. SMITH: Well, I think it was
5 "assigned" -- "assigned the right to
6 collect the documents."

7 MR. KING: Oh, all right.

8 MR. SMITH: So it's kind of a
9 different question.

10 MR. KING: We'll --

11 MR. SMITH: You might want to
12 re-ask your question.

13 MR. KING: I will re-ask. I do
14 see that it was -- in English, at
15 least, it's that way.

16 THE CHECK INTERPRETER: It's
17 ambiguous.

18 MR. KING: Okay.

19 BY MR. KING:

20 Q. Your son had a right to collect
21 money from Financial Group "Life" under
22 the promissory notes; correct?

23 A. Correct.

24 Q. Did your son ever legally assign
25 the right to collect the money under the

1 K. AVAGUMYAN - CONFIDENTIAL

2 notes to Mr. Varshavsky?

3 MR. SMITH: Object to form.

4 Foundation.

5 A. My son nominally owns these
6 promissory notes. I managed the
7 promissory notes. They're in my safe. He
8 never managed them himself. And I asked
9 Varshavsky to when he's in the
10 United States, and I knew that the legal
11 proceedings were starting -- his legal
12 proceedings were starting.

13 And I did ask him to touch on
14 the questions that concerned my personal
15 money. I don't think that, between me and
16 my partner, we have to sign any kind of
17 legal documents regarding this request.

18 Q. Who has the right to collect the
19 money that is owed on the notes?

20 MR. SMITH: Objection to form
21 and foundation.

22 A. The whole time, I was the one
23 getting -- collecting the money. So I
24 think I have the right to collect the
25 money.

CERTIFICATION

I, SHARON LENGEL, a Notary Public for
and within the State of New York, do
hereby certify:

That the witness whose testimony as
herein set forth, was duly sworn by me;
and that the within transcript is a true
record of the testimony given by said
witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage, and that I am
in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 29th day of December,
2016.



SHARON LENGEL